



Resolution No. 2016R-106

City of Minneapolis

File No. 16-00360

By Goodman

**Authorizing the issuance, sale, and delivery of revenue bonds for the benefit of the Young Men's Christian Association of the Greater Twin Cities; approving the form of and authorizing the execution and delivery of the revenue bonds and related documents; and granting approval for certain other actions with respect thereto.**

Resolved by The City Council of The City of Minneapolis:

1. **STATUTORY AUTHORIZATION.** The City of Minneapolis (the "City") is a home rule city and municipal corporation duly organized and existing under its Charter and the Constitution and laws of the State of Minnesota. The City is authorized by Minnesota Statutes, Sections 469.152 through 469.1655, as amended (the "Act"), to issue revenue bonds to finance, in whole or in part, the costs of the acquisition, construction, reconstruction, improvement, betterment, or extension of projects, including any properties, real or personal, used or useful in connection with a revenue producing enterprise, whether or not operated for profit.

2. **THE BONDS.** The Young Men's Christian Association of the Greater Twin Cities, a Minnesota nonprofit corporation doing business as the YMCA of the Greater Twin Cities (the "Borrower"), has requested that the City issue its Revenue Bonds (YMCA of the Greater Twin Cities Project), Series 2016 (the "Bonds"), in one or more series, in an estimated aggregate principal amount not to exceed \$15,000,000. The Borrower has represented to the City that it intends to use the proceeds of the Bonds (the "Loan") to (i) finance the acquisition, renovation, and equipping of floors 3, 4 and 5 in an existing building located at 601 and 629 Nicollet Mall in the City known as Gaviidae Common which will include approximately 53,000 square feet of space for branch operations of the Borrower and approximately 43,000 square feet of office space for corporate headquarters of the Borrower (collectively, the "Project"); and (ii) pay the costs of issuance of the Bonds. The Bond-financed portion of the Project will be owned and operated by the Borrower.

3. **INDENTURE AND LOAN AGREEMENT.** The Bonds are proposed to be issued pursuant to an Indenture of Trust, to be dated on or after May 1, 2016 (the "Indenture"), between the City and a trustee to be named therein (the "Trustee"). The Loan is proposed to be made pursuant to a Loan Agreement, to be dated on or after May 1, 2016 (the "Loan Agreement"), between the City and the Borrower to finance the Project and pay the costs of issuance of the Bonds.

4. **PUBLIC HEARING.** Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), and regulations promulgated thereunder, and Section 469.154, subdivision 4 of the Act require that prior to the issuance of the Bonds, the City Council approve the issuance of the Bonds after conducting a public hearing thereon. On March 22, 2016, the Community Development and Regulatory Services Committee of the City Council, on behalf of the City, conducted a duly noticed public hearing with respect to the proposed issuance of revenue obligations to finance the Project. The public hearing was conducted at least fourteen (14) days after the publication of the notice of public hearing in *Finance and Commerce*, the official newspaper of the City, and *Star Tribune*, a newspaper of general circulation in the City.



5. APPROVAL OF PROJECT. It is hereby found and determined that the Project furthers the purposes set forth in the Act, and therefore the Project constitutes a "project" within the meaning of Section 469.153, subdivision 2(b) of the Act. In accordance with Section 469.154 of the Act, the Finance Officer of the City, Interim Finance Officer of the City, and any persons exercising the powers of the Finance Officer (collectively, the "Finance Officer") and the Director of Economic Policy and Development of the City (together, the "Authorized Officers") are authorized and directed to submit the proposal for the Project to the Minnesota Department of Employment and Economic Development ("DEED"). The Authorized Officers and other officers, employees, and agents of the City are hereby authorized to provide DEED with any information needed for this purpose, and the Authorized Officers are authorized to initiate and assist in the preparation of such documents as may be appropriate to the Project, if it is approved.

6. OBLIGATIONS OF THE CITY. The City acknowledges, finds, determines, and declares that the proposed issuance of the Bonds is consistent with the purposes of the Act. The Bonds will be special, limited obligations of the City that: (i) shall be payable solely from the revenues pledged therefor under the Loan Agreement; (ii) shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation; (iii) shall not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; (iv) shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the City other than the City's interest in the Loan Agreement; and (v) shall not constitute a general or moral obligation of the City. The other actions of the City under this resolution, the Indenture, and the Loan Agreement constitute a public purpose and are in the interests of the City.

7. ISSUANCE OF THE BONDS. For the purposes set forth above, there is hereby authorized the issuance, sale, and delivery of the Bonds, in one or more series, in the estimated maximum aggregate principal amount of \$15,000,000, subject to the approval of DEED pursuant to the Act. The Bonds are hereby authorized to be issued as tax-exempt bonds the interest on which is not includable in gross income for federal and State of Minnesota income tax purposes. The Bonds, substantially in the form set forth in the Indenture now on file with the City, are hereby approved with the amendments referenced herein. All of the provisions of the Bonds, when executed as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Bonds shall bear interest at the rates, shall be designated, shall be numbered, shall be dated, shall mature, shall be in the aggregate principal amount, shall be subject to redemption prior to maturity, shall be in such forms, and shall have such other terms, details, and provisions as are prescribed in the Indenture, in the form now on file with the City, which form is hereby approved, with such necessary and appropriate variations, omissions, and insertions (including changes to the aggregate principal amount of the Bonds, the stated maturities of the Bonds, the interest rates on the Bonds, and the terms of redemption of the Bonds) as the Finance Officer, in his or her discretion, shall determine. The execution of the Bonds with the manual or facsimile signature of the Finance Officer and the delivery of the Bonds by the City shall be conclusive evidence of such determination.

The Bonds shall be special, limited obligations of the City payable solely from the revenues provided by the Borrower pursuant to the terms of the Loan Agreement and from the revenues and security pledged, assigned, and granted pursuant to the Indenture and pursuant to any security documents provided by the Borrower to the Trustee. As provided in the Loan Agreement, the Bonds shall not be payable from or charged upon any funds other than the revenue pledged to their payment, nor shall the City be subject to any liability thereon, except as otherwise provided in this paragraph. No holder of the Bonds shall ever have the right to compel any exercise by the City of any taxing powers of the City to pay the Bonds or the interest or premium thereon, or to enforce payment thereof against any property of the City except the interests of the City in the Loan Agreement and the revenues and assets thereunder, which will be assigned to the Trustee under the terms of the Indenture. The Bonds shall recite that the Bonds are issued pursuant to the Act, and that the Bonds, including interest and premium, if any,



thereon, are payable solely from the revenues and assets pledged to the payment thereof, and the Bonds shall not constitute a debt of the City within the meaning of any constitutional or statutory limitations.

8. **INDENTURE.** The Indenture is hereby approved and the Finance Officer is hereby authorized to execute and deliver the Indenture on behalf of the City. All of the provisions of the Indenture, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Indenture shall be substantially in the form now on file with the City with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, as the Finance Officer, in his or her discretion, shall determine, and the execution and delivery thereof by the Finance Officer shall be conclusive evidence of such determination.

9. **LOAN AGREEMENT.** The Loan Agreement is hereby approved and the Finance Officer is hereby authorized to execute and deliver the Loan Agreement on behalf of the City. All of the provisions of the Loan Agreement, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The Loan Agreement shall be substantially in the form now on file with the City, with such necessary and appropriate variations, omissions, and insertions as do not materially change the substance thereof, as the Finance Officer, in his or her discretion, shall determine, and the execution and delivery thereof by the Finance Officer shall be conclusive evidence of such determinations. Except for certain reserved rights, the interests of the City in the Loan Agreement will be assigned to the Trustee for the benefit of the owners of the Bonds pursuant to the terms of the Indenture.

The loan repayments to be made by the Borrower under the Loan Agreement are fixed to produce revenues sufficient to provide for the prompt payment of the principal of, premium, if any, and interest on the Bonds when due, and the Loan Agreement also provides that the Borrower is required to pay all expenses of the operation and maintenance of the Project, including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all lawfully imposed taxes and special assessments levied upon or with respect to the Project and payable during the term of the Loan Agreement.

10. **OTHER CITY DOCUMENTS.** The Finance Officer is hereby authorized to execute and deliver, on behalf of the City, such other documents and certificates as are necessary or appropriate in connection with the issuance, sale, and delivery of the Bonds, including a Bond Purchase Agreement, to be dated after the date hereof (the "Purchase Agreement"), between the City, the Borrower, and Piper Jaffray & Co., as original purchaser of the Bonds, various certificates of the City, an Information Return for Tax-Exempt Private Activity Bond Issues, Form 8038, an endorsement to the Borrower's certificate as to arbitrage and rebate, and similar documents, and all other documents and certificates as shall be necessary and appropriate in connection with the issuance, sale, and delivery of the Bonds. All of the provisions of such documents and certificates, when executed and delivered as authorized herein, shall be deemed to be a part of this resolution as fully and to the same extent as if incorporated verbatim herein and shall be in full force and effect from the date of execution and delivery thereof. The City hereby authorizes Kennedy & Graven, Chartered, as bond counsel, to prepare, execute, and deliver its approving legal opinions with respect to the Bonds.

11. **DISCLOSURE DOCUMENTS.** The City will not participate in the preparation of an official statement or other disclosure document relating to the offer and sale of the Bonds (the "Disclosure Document"), and will make no independent investigation with respect to the information contained in the Disclosure Document, including the appendices thereto, and the City assumes no responsibility for the sufficiency, accuracy, or completeness of such information (except for such information that is specifically provided



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by the City for inclusion in the Disclosure Document such as information regarding the authority of the City to issue the Bonds and any material pending litigation against the City).

12. **SUBSEQUENT AMENDMENTS.** On any date subsequent to the date of issuance of the Bonds, the Finance Officer is hereby authorized to execute and deliver any amendments or supplements to any of the documents referred to in this resolution or other documents executed and delivered in connection with the issuance of the Bonds if, after review by bond counsel and the City Attorney's Office, the Finance Officer determines that the execution and delivery of such amendment or supplement is in the interests of the City and consistent with the intent of this resolution. The Finance Officer may impose any terms or conditions on the execution and delivery of any such amendment or supplement as the Finance Officer deems appropriate.

13. **LIMITATIONS OF LIABILITY.** No covenant, stipulation, obligation, or agreement herein contained or contained in the aforementioned documents shall be deemed to be a covenant, stipulation, obligation, or agreement of any member of the City Council of the City, or any officer, agent, or employee of the City in that person's individual capacity, and neither the City Council of the City nor any officer or employee executing the Bonds shall be personally liable on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof. No provision, covenant, or agreement contained in the aforementioned documents, the Bonds, or in any other document relating to the Bonds, and no obligation therein or herein imposed upon the City or the breach thereof, shall constitute or give rise to a general or moral obligation of the City or any pecuniary liability of the City or any charge upon its general credit or taxing powers. In making the agreements, provisions, covenants, and representations set forth in such documents, the City has not obligated itself to pay or remit any funds or revenues, other than funds and revenues derived from the Loan Agreement which are to be applied to the payment of the Bonds, as provided therein.

Except as herein otherwise expressly provided, nothing in this resolution or in the aforementioned documents expressed or implied, is intended or shall be construed to confer upon any person or firm or corporation, other than the City, and any holders of the Bonds issued under the provisions of this resolution, any right, remedy or claim, legal or equitable, under and by reason of this resolution or any provisions hereof, this resolution, the aforementioned documents, and all of their provisions being intended to be and being for the sole and exclusive benefit of the City, and any holders from time to time of the Bonds issued under the provisions of this resolution.

14. **SEVERABILITY.** In case any one or more of the provisions of this resolution, other than the provisions limiting the liability of the City, or of the aforementioned documents, or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution, or of the aforementioned documents, or of the Bonds, but this resolution, the aforementioned documents, and the Bonds shall be construed and endorsed as if such illegal or invalid provisions had not been contained therein.

15. **VALIDITY OF THE BONDS.** The Bonds, when executed and delivered, shall contain a recital that they are issued pursuant to the Act, and such recital shall be conclusive evidence of the validity of the Bonds and the regularity of the issuance thereof, and that all acts, conditions, and things required by the laws of the State of Minnesota relating to the adoption of this resolution, to the issuance of the Bonds, and to the execution of the aforementioned documents to happen, exist, and be performed precedent to the execution of the aforementioned documents have happened, exist, and have been performed as so required by law.



## 16. REIMBURSEMENT REGULATIONS.

(a) The United States Department of the Treasury has promulgated regulations governing the use of the proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City or the Borrower for project expenditures paid prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than sixty (60) days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds occur within eighteen (18) months after the later of: (i) the date the expenditure is paid; or (ii) the date the project is placed in service or abandoned, but in no event more than three (3) years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the Bonds.

(b) To the extent any portion of the proceeds of the Bonds will be applied to expenditures with respect to the Project, the City reasonably expects to reimburse the Borrower for the expenditures made for costs of the Project from the proceeds of the Bonds after the date of payment of all or a portion of such expenditures. All reimbursed expenditures shall be capital expenditures, costs of issuance of the Bonds, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations and also qualifying expenditures under the Act.

Based on representations by the Borrower, other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under prior regulations pursuant to the transitional provision contained in Section 1.150-2(j)(2)(i)(B) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimis" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures with respect to the Project to be reimbursed with the proceeds of the Bonds have been made by the Borrower more than sixty (60) days before the date of adoption of this resolution of the City.

(c) Based on representations by the Borrower, as of the date hereof, there are no funds of the Borrower reserved, allocated on a long term-basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project to be financed from proceeds of the Bonds, other than pursuant to the issuance of the Bonds. This resolution, therefore, is determined to be consistent with the budgetary and financial circumstances of the Borrower as they exist or are reasonably foreseeable on the date hereof.

17. ADDITIONAL ACTIONS. The officers of the City, bond counsel, other attorneys, and other agents or employees of the City are hereby authorized to do all acts and things required of them by or in connection with this resolution, the aforementioned documents, and the Bonds, for the full, punctual, and complete performance of all the terms, covenants, and agreements contained in the Bonds, the aforementioned documents, and this resolution. The Borrower has agreed and it is hereby determined that any and all costs incurred by the City in connection with the Project and the issuance of the Bonds will be paid by the Borrower. It is understood and agreed that the Borrower shall indemnify the City against all liabilities, losses, damages, costs, and expenses (including attorney's fees and expenses incurred by the City) arising with respect to the Project or the issuance of the Bonds, as provided for and agreed to by and between the Borrower and the City in the Loan Agreement.

18. DESIGNATION AS PROGRAM BONDS. The Bonds are hereby designated "Program Bonds" and are determined to be within the "Economic Development Program" and the "Program," all as defined in Resolution 88R-021 of the City adopted January 29, 1988, and as amended by Resolution 1997R-402 of the City adopted December 12, 1997.

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19. EFFECTIVE DATE. This resolution shall take effect and be in force from and after its approval and publication. Pursuant to Chapter 4, Section 9, of the Charter of the City, only the title of this resolution and a summary of this resolution conforming to Minnesota Statutes, Section 331A.01, subdivision 10, shall be published in the official paper of the City.

Committee: CDRS Public Hearing: 3/22/2016 Publication: APR 09 2016

RECORD OF COUNCIL VOTE				
MEMBER	AYE	NAY	ABSTAIN	ABSENT
REICH	X			
GORDON	X			
FREY	X			
B. JOHNSON	X			
YANG	X			
WARSAME	X			
GOODMAN	X			
GLIDDEN	X			
CANO	X			
BENDER	X			
QUINCY	X			
A. JOHNSON	X			
PALMISANO	X			
DATE:	APR 01 2016			

☒ APPROVED

☐ VETOED

  
MAYOR HODGES

APR 04 2016

DATE

*Certified an official action of the City Council*

ATTEST:

  
CITY CLERK

Presented to the Mayor:

APR 01 2016

Received from the Mayor:

APR 06 2016